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June 15, 2018

Via ECF

Hon. Joanna Seybert, U.S.D.J.
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Hon. Steven I. Locke, U.S.M.J
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: Letter Motion to Compel Defendants to Produce Class Notice Mailing List & to Authorize Publication of the Notice
14-cv-01647-JS-SIL *Zhang et al v. Wen Mei Inc. et al*

Dear Hon. Seybert and Hon. Locke:

We represent the plaintiffs in the above-captioned matter. We write respectfully to compel Defendants to produce the employee mailing list of the Class action members pursuant to Court Order dated May 1, 2018. Dkt. 227. (Granting Plaintiff's motion for proposed class action notice and plan.)

Relevant Procedural History

On March 16, 2018, Plaintiffs filed with this court a motion for proposed class action notice and class action plan. Dkts. 218-220. That motion sought an order from the court:

“Within 21 days of the Court approving the proposed class action notice, Defendants shall provide Plaintiffs’ counsel with a Microsoft Excel (.xlsx) file containing the 1) names, 2) last known addresses, 3) last known email addresses, 4) last known telephone numbers, 5) dates of employment, and 6) job titles for all individuals who were employed or are currently employed by Defendants in any tipped or non-tipped non-exempt positions at any time from March 12, 2008 to February 14, 2018 (the “Class List”).” *See* Dkt. 220.

On May 1, 2018, this Court granted Plaintiffs’ motion, and ordered the Defendants to produce all outstanding class information so that the direct notices may be sent on or before June 8, 2018. *See* Dkt. 227.

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On June 6, Plaintiffs' counsel wrote to this court requesting an extension of time to mail out the class action notices because Defendants have not produced sufficient class information. *See* Dkt. 229. Plaintiffs' request is still pending before this court.

Defendants' Failure to Comply with the Order and Plaintiffs' Proposed Remedy

To date, Defendants have only provided to Plaintiffs' counsel payroll records which only contains Employees' names, but without any other contact information. Plaintiffs' counsel has followed up with Defense counsels for numerous times regarding this matter. However, Defense counsels position is that their clients do not have their employees addresses.

Because Plaintiffs' counsel does not have sufficient information to mail out the class action notice due to Defendants' failure to maintain complete and accurate employment records, Plaintiffs propose that Plaintiffs be able to publish the class action notice on a suitable newspaper at Defendants' expense. *See Lin v. Joe Japanese Buffet Restaurant Inc. et al*, No. 17-cv-03435-WFK-SMG (E.D.N.Y. Jan. 26, 2018) ("In light of defendants' failure to maintain books and records identifying their employees and containing contact information for them, plaintiff may publish an abbreviated Section 216(b) notice at defendant's [sic.] expense."); *see also Wang v. Happy Hot Hunan Restaurant, Inc. et al*, No. 17-cv-0201-RA-JLC (S.D.N.Y. Apr. 23, 2018) (where "defendants have made an effort to produce the names and addresses and have not been able to provide information with respect to the vast majority of the collective," Court directed notice to be posted at Defendants' business as well as newspaper publication at defendants' expense "[b]ecause the posting alone will not adequately notify collective members who have left defendants' employment.") (emphasis added).

Conclusion

For the foregoing reasons, Plaintiffs respectfully request that this Court order immediate compliance with the Court's order issued on May 1, 2018. Furthermore, grant Plaintiffs' proposed remedy.

We thank this court for its time and attention to this matter.

Respectfully submitted,
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